

## CONDOMINIUM PUBLIC REPORT

Prepared &  
Issued by:

Developer WILLIAM CHRIS WITHERS and VIRGINIA L. WITHERS  
Address 576 Papau Hikina Place, Kihei, Hawaii 96753

Project Name(\*): MAKAWAO GARDENS  
Address: 21 Makani Road, Makawao, Hawaii 96768

Registration No. 3796 (Conversion)

Effective date: February 20, 1998

Expiration date: March 20, 1999

### Preparation of this Report:

This report has been prepared by the Developer pursuant to the Condominium Property Act, Chapter 514A, Hawaii Revised Statutes, as amended. This report is not valid unless the Hawaii Real Estate Commission has issued a registration number and effective date for the report.

This report has not been prepared or issued by the Real Estate Commission or any other government agency. Neither the Commission nor any other government agency has judged or approved the merits or value, if any, of the project or of purchasing an apartment in the project.

Buyers are encouraged to read this report carefully, and to seek professional advice before signing a sales contract for the purchase of an apartment in the project.

Expiration Date of Reports. Preliminary Public Reports and Final Public Reports automatically expire thirteen (13) months from the effective date unless a Supplementary Public Report is issued or unless the Commission issues an order, a copy of which is attached to this report, extending the effective date for the report.

Exception: The Real Estate Commission may issue an order, a copy of which shall be attached to this report, that the final public report for a two apartment condominium project shall have no expiration date.

### Type of Report:

- ☐ **PRELIMINARY:** The developer may not as yet have created the condominium but has filed with the Real Estate Commission minimal information sufficient for a Preliminary Public Report. A Final Public Report will be issued by the developer when complete information is filed.  
(yellow)
- ☐ **FINAL:** The developer has legally created a condominium and has filed complete information with the Commission.  
(white)  
☐ No prior reports have been issued.  
☐ This report supersedes all prior public reports.  
☐ This report must be read together with \_\_\_\_\_
- ☒ **SUPPLEMENTARY:** This report updates information contained in the:  
(pink)  
☐ Preliminary Public Report dated: \_\_\_\_\_  
☒ Final Public Report dated: October 17, 1997  
☐ Supplementary Public Report dated: \_\_\_\_\_
- And ☐ Supersedes all prior public reports  
☒ Must be read together with Final Public Report dated October 17, 1997  
☐ This report reactivates the \_\_\_\_\_  
public report(s) which expired on \_\_\_\_\_

(\*) Exactly as named in the Declaration

FORM: RECO-30 286/986/189/1190/892/0197

**Disclosure Abstract:** Separate Disclosure Abstract on this condominium project:

☐ Required and attached to this report                      ☒ Not Required - Disclosures covered in this report.

**Summary of Changes from Earlier Public Reports:**

This summary contains a general description of the changes, if any, made by the developer since the last public report was issued. It is not necessarily all inclusive. Prospective buyers should compare this public report with the earlier reports if they wish to know the specific changes that have been made.

☐ No prior reports have been issued by the developer.

☒ Changes made are as follows:

1. Declaration of Condominium Property Regime of Makawao Gardens has been amended by instrument dated December 9, 1997, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 97-173279, for the purpose of complying with certain requirements of the Department of Housing and Urban Development ("HUD") Condominium Regulations and the HUD Revised Legal Policy.
2. Bylaws of Association of Apartment Owners of Makawao Gardens has been amended by instruments dated December 9, 1997, recorded in said Bureau of Conveyances as Document No. 97-173280 and January 21, 1998, recorded as Document No. 98-008807, for the purpose of complying with certain requirements of the Department of Housing and Urban Development ("HUD") Condominium Regulations and the HUD Revised Legal Policy.
3. Exhibit "G" has been revised to show increase in the cost of insurance.

**SPECIAL ATTENTION**

This is a CONDOMINIUM PROJECT, not a subdivision. It does not involve the sale of individual subdivided lots. The land area beneath and immediately appurtenant to each unit is designated a LIMITED COMMON ELEMENT and is not a legally subdivided lot. The dotted lines on the Condominium Map bounding the designated number of square feet in each limited common element land area are for illustrative purposes only and should not be construed to be the property lines of legally subdivided lots.

1. This public report does not constitute approval of the Project by the Real Estate Commission, or any other government agency, nor does it ensure that all applicable County codes, ordinances and subdivision requirements have been complied with.

2. Facilities and improvements normally associated with County approved subdivisions, such as fire protection devices, County street lighting, electricity, upgraded water facilities, improved access for owner and emergency traffic, drainage facilities, etc., may not necessarily be provided for, and services such as County street maintenance and trash collection will not be available for interior roads and driveways.

THE PROSPECTIVE PURCHASER IS CAUTIONED TO CAREFULLY REVIEW THE CONDOMINIUM DOCUMENTS REFERENCED IN THIS PUBLIC REPORT FOR FURTHER INFORMATION WITH REGARD TO THE FOREGOING.

## II. CREATION OF THE CONDOMINIUM; CONDOMINIUM DOCUMENTS

A condominium is created by recording in the Bureau of Conveyances and/or filing with the Land Court a Declaration of Condominium Property Regime, a Condominium Map (File Plan), and the Bylaws of the Association of Apartment Owners. The Condominium Property Act (Chapter 514A, HRS), the Declaration, Bylaws, and House Rules control the rights and obligations of the apartment owners with respect to the project and the common elements, to each other, and to their respective apartments. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law.

- A. **Declaration of Condominium Property Regime** contains a description of the land, buildings, apartments, common elements, limited common elements, common interests, and other information relating to the condominium project.

The Declaration for this condominium is:

☐ Proposed  
☒ Recorded - Bureau of Conveyances: Document No. 97-102682  
Book \_\_\_\_\_ Page \_\_\_\_\_  
☐ Filed - Land Court: Document No. \_\_\_\_\_

The Declaration referred to above has been amended by the following instruments [state name of document, date and recording/filing information]:

First Amendment to Declaration of Condominium Property Regime of Makawao Gardens, dated December 9, 1997, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 97-173279.

- B. **Condominium Map (File Plan)** shows the floor plan, elevation and layout of the condominium project. It also shows the floor plan, location, apartment number, and dimensions of each apartment.

The Condominium Map for this condominium project is:

☐ Proposed  
☒ Recorded - Bureau of Conveyances Condo Map No. 2583  
☐ Filed - Land Court Condo Map No. \_\_\_\_\_

The Condominium Map has been amended by the following instruments [state name of document, date and recording/filing information]:

- C. **Bylaws of the Association of Apartment Owners** govern the operation of the condominium project. They provide for the manner in which the Board of Directors of the Association of Apartment Owners is elected, the powers and duties of the Board, the manner in which meetings will be conducted, whether pets are prohibited or allowed and other matters which affect how the condominium project will be governed.

The Bylaws for this condominium are:

☐ Proposed  
☒ Recorded - Bureau of Conveyances: Document No. 97-102683  
Book \_\_\_\_\_ Page \_\_\_\_\_  
☐ Filed - Land Court: Document No. \_\_\_\_\_

The Bylaws referred to above have been amended by the following instruments [state name of document, date and recording/filing information]:

First Amendment to Bylaws of Association of Apartment Owners of Makawao Gardens, dated December 9, 1997, recorded in said Bureau of Conveyances as Document No. 97-173280, and Second Amendment to Bylaws of Association of Apartment Owners of Makawao Gardens, dated January 21, 1998, recorded as Document No. 98-008807.

#### IV. CONDOMINIUM MANAGEMENT

- A. **Management of the Common Elements:** The Association of Apartment Owners is responsible for the management of the common elements and the overall operation of the condominium project. The Association may be permitted, and in some cases may be required, to employ or retain a condominium managing agent to assist the Association in managing the condominium project.

**Initial Condominium Managing Agent:** When the developer or the developer's affiliate is the initial condominium managing agent, the management contract must have a term of one year or less and the parties must be able to terminate the contract on notice of 60 days or less.

The initial condominium managing agent for this project, named on page five (5) of this report, is:

☐ not affiliated with the Developer ☐ the Developer or the Developer's affiliate.  
☒ self-managed by the Association of Apartment Owners ☐ Other: \_\_\_\_\_

- B. **Estimate of Initial Maintenance Fees:**

The Association will make assessments against your apartment to provide funds for the operation and maintenance of the condominium project. If you are delinquent in paying the assessments, a lien may be placed on your apartment and the apartment may be sold through a foreclosure proceeding.

Initial maintenance fees are difficult to estimate and tend to increase as the condominium ages. Maintenance fees may vary depending on the services provided.

Exhibit "G" contains a schedule of estimated initial maintenance fees and maintenance fee disbursements (subject to change).

- C. **Utility Charges for Apartments:**

Each apartment will be billed separately for utilities except for the following checked utilities which are included in the maintenance fees:

☐ None ☐ Electricity (\_\_\_\_\_ Common Elements only \_\_\_\_\_ Common Elements & Apartments)  
☐ Gas (\_\_\_\_\_ Common Elements only \_\_\_\_\_ Common Elements & Apartments)  
☒ Water ☐ Sewer ☐ Television Cable  
☒ Other Maintenance and Pumping of Cesspools; Trash Pickup

2. Rights Under the Sales Contract: Before signing the sales contract, prospective buyers should ask to see and carefully review all documents relating to the project. If these documents are not in final form, the buyer should ask to see the most recent draft. These include but are not limited to the:

- A) Condominium Public Reports issued by the developer which have been given an effective date by the Hawaii Real Estate Commission.
- B) Declaration of Condominium Property Regime, as amended.
- C) Bylaws of the Association of Apartment Owners, as amended.
- D) House Rules, if any.
- E) Condominium Map, as amended.
- F) Escrow Agreement.
- G) Hawaii's Condominium Property Act (Chapter 514A, HRS, as amended) and Hawaii Administrative Rules, (Chapter 16-107, adopted by the Real Estate Commission, as amended).
- H) Other: \_\_\_\_\_

Copies of the condominium and sales documents and amendments made by the developer are available for review through the developer and are on file at the Department of Commerce and Consumer Affairs. Reprints of Hawaii's Condominium Property Act (Chapter 514A, HRS) and Hawaii Administrative Rules, Chapter 16-107, are available at the Cashier's Office, Department of Commerce and Consumer Affairs, 1010 Richards Street, 3rd Floor, Honolulu, Hawaii, mailing address: P. O. Box 541, Honolulu, Hawaii 96809, at a nominal cost.

This Public Report is a part of Registration No. 3796 filed with the Real Estate Commission on August 13, 1997. (Conversion)

Reproduction of Report. When reproduced, this report must be on:

☐ YELLOW paper stock      ☐ WHITE paper stock      ☒ PINK paper stock

- D. The developer hereby certifies that all the information contained in this Report and the Exhibits attached to this Report and all documents to be furnished by the developer to buyers concerning the project have been reviewed by the developer and are, to the best of the developer's knowledge, information and belief, true, correct and complete.

WILLIAM CHRIS WITHERS and VIRGINIA L. WITHERS

Printed Name of Developer

By:   
Duly Authorized Signatory

12/9/97  
Date

WILLIAM CHRIS WITHERS

Print Name & Title of Person Signing Above

Distribution:

Department of Finance, County of Maui

Planning Department, County of Maui

**EXHIBIT "G"**

CONDOMINIUM PUBLIC REPORT  
MAKAWAO GARDENS  
ESTIMATE OF INITIAL MAINTENANCE FEES  
AND  
ESTIMATE OF MAINTENANCE FEE DISBURSEMENTS

Estimate of Initial Maintenance Fees:

<u>Apartment</u>	<u>Monthly Fee x 12 months = Yearly Total</u>	
1	\$73.34	\$880.08
2	\$73.34	\$880.08
3	\$73.34	\$880.08
4	\$73.34	\$880.08
5	\$73.34	\$880.08

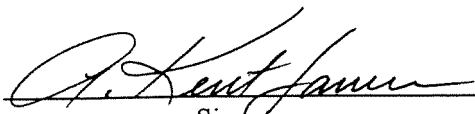
The Real Estate Commission has not reviewed the estimates of maintenance fee assessments and disbursements for their accuracy or sufficiency.

**Estimate of Maintenance Fee Disbursements:**

Monthly x 12 months = Yearly Total

Utilities and Services		
Trash Pickup @ \$60 per apartment	\$ 25.00	\$ 300.00
Management		
Office Expenses	\$ 8.33	\$ 100.00
Insurance		
	\$156.25	\$1,875.00
Reserves (*)		
Sewage (cesspool) systems replacement costs	\$133.33	\$1,600.00
Water lines	\$ 3.33	\$ 40.00
Road	\$ 17.50	\$ 210.00
Taxes and Government Assessments		
Common Area Real Property Taxes	\$ 10.42	\$ 125.00
Other		
Miscellaneous	\$ 12.50	\$ 150.00
TOTAL	\$366.66	\$4,400.00

I, **A. Kent James, of James, White & Associates, CPAs, Inc.**, as agent for/and/or employed by **William Chris Withers**, the developer for the **Makawao Gardens** condominium project, hereby certify that the above estimates of initial maintenance fee assessments and maintenance fee disbursements were prepared in accordance with generally accepted accounting principles.

  
Signature

12/10/97  
Date

(\*) Mandatory reserves assessment and collection in effect beginning 1994 budget year. The Developer is to attach this exhibit as an explanation whether, in arriving at the figure for "Reserves", the Developer has conducted a reserve study in accordance with Section 514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.

Pursuant to Section 514A-83.6, HRS, a new association created after January 1, 1993, need not collect estimated replacement reserves until the fiscal year which begins after the association's first annual meeting.



**ATTACHMENT  
TO  
EXHIBIT "G"**

Estimate of Initial Maintenance Fees  
and  
Estimate of Maintenance Fee Disbursements

Statement as to Reserve Study

The Developer has conducted a reserve study in accordance with Section 514A-83.6, HRS, and the replacement reserve rules, Subchapter 6, Title 16, Chapter 107, Hawaii Administrative Rules, as amended.